IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO. 27623 OF 2007

Dated : December 27, 2007

Between:

Kalvakota Vijyaya Kumar and another

Petitioners

AND

The Municipal Corporation,
Karimnagar, Rep. By its Commissioner and another

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

AND

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO. 27623 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Seeking a writ of Mandamus declaring action of the

respondents in recovering the alleged arrears of property tax in respect of House No. 2-10-1176 situated at Jyothinagar, Karimnagar by distress, in terms of Sec. 269 of the Hyderabad Municipal Corporation Act, 1955 as illegal, arbitrary and contrary to the provisions of Sec. 266 and 268 of the Hyderabad Municipal Corporation Act, 1955, the petitioners filed this writ petition.

The petitioners herein are the owners of the house bearing Municipal No. 2-10-1176 situated at Jyothinagar, Karimnagar. It is averred that after revision of the property tax, the quantum of annual property tax in respect of the house in question, was determined at Rs.7,229.10 Ps. The petitioners assailed said quantum by filing OS No. 896 of 1986 before the District Munsif, Karimangar, which was decreed on 11.8.1988. While so, without conducting any enquiry in respect of the tax revision, the first respondent issued demand notice dated 23.6.1994 demanding payment of Rs.65,335/- and the request of the petitioners to furnish break up figures for such amount, was not complied with by the respondents. Subsequently, the first respondent issued another demand notice dated 25.6.2001 demanding payment of Rs.88,496/- towards property tax. On 30.9.2004, the first respondent issued notice demanding payment of Rs.97,134/- towards arrears of property tax and Rs.2,28,448/- till 31.3.2004. Consequent upon the request of the petitioners to furnish

break up figures, the first respondent informed the petitioners that a sum of Rs.1,14,364/- is payable upto 31.3.2005, which accordingly to the petitioners is not correct, even if the property tax of Rs.8,762/- is added to Rs.97,134/-, demanded as per the notice dated 30.9.2004. The petitioners submitted representation to the Chairman of the then Municipality on 1.12.2004 and on 31.12.2004 stating that as per the Municipal Corporation of Hyderabad Act, the authorities shall not collect the tax beyond three years. Ultimately, the first respondent by demand notice dated 1.6.2006 directed the petitioners to pay Rs.1,90,051/- mentioning the tax payable for half year of 2006-2007 as Rs.4,381/- and arrears of tax at Rs.1,12,967/- as on 31.3.2006 and penalty of Rs.62,882/-. The petitioners submitted representation on 24.6.2006, to the effect that the demand is defective. It is the specific and persistent allegation of the petitioners that their request to furnish break up figures was never considered and no such figures were furnished to them.

It is averred that the first respondent without issuing notice in Schedule K and without issuing distress warrant in Schedule L, surprisingly, the 2nd respondent deputed Revenue Inspector, Urban Karimnagar to the house of the petitioners, for attachment of property, which is not in accordance with the law. Hence, the present writ petition.

Heard the learned counsel for the petitioners and

the learned Standing Counsel for the Respondents.

The learned counsel for the petitioners submits that the petitioners have made a proposal by letter dated 3.1.2005 to the effect that they shall pay the property tax of Rs.52,572/- calculated at Rs.8,762/- per year from 1.4.1999 to 31.3.2005, apart from the representations submitted from time to time, which were neither considered nor replied by the respondents and are still pending consideration with the respondents. He further contends that the petitioners be given liberty to file objections to the impugned notice and the respondents be directed to consider the same.

Evidently, representations submitted by the petitioners from time to time, were not replied by the respondents. The latest representation submitted by the petitioners is 28.5.2007.

Therefore, in the facts and circumstances of the case, without adverting to the merits or otherwise of the contentious issues raised on behalf of the petitioners in this writ petition, we grant liberty to the petitioners to file objections to the impugned demand notice within four weeks from today and in the event of such submission of objections, the respondents are directed to consider and dispose of the same within a period of four weeks therefrom. Till such time, no coercive steps shall be taken for recovery of the demanded amount.

With the above directions, the writ petition is disposed of. No order as to costs.

T.MEENA KUMARI, J.

G.ROHINI, J.

December 27, 2007
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